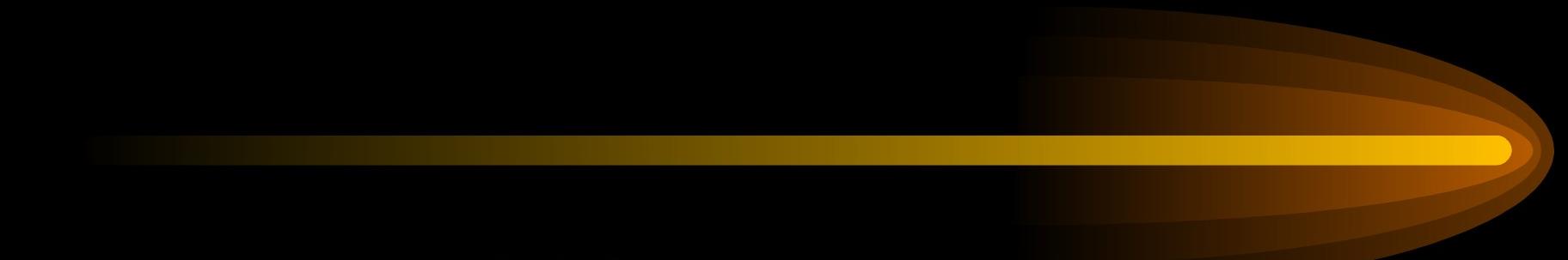


Debriefing



Acquisition Support Division

Dick Stem, 55473

Purpose of Debriefing

- 1. To explain the rationale for the decision**
- 2. To instill confidence the offeror was treated fairly**
- 3. To assure offeror that proposals were evaluated in accordance with RFP, laws, and regulations**
- 4. To identify proposal short-comings so offeror can better prepare in future**
- 5. To reduce misunderstandings and protests**
- 6. To provide opportunity for feedback**

What it is NOT:

- 1. Page by page analysis of proposal**
- 2. Point by point comparison of proposals**
- 3. Debate or defense of government's decision**

When to Conduct Debriefing

Government must conduct if:

- 1. Offeror makes written request**
- 2. Request is received within 3 days after offeror received notice of exclusion from competition, or, contract award**
 - a. Ex: Contractor received notice Tuesday
Request must be received by COB Friday**
 - b. Suggest sending notices to unsuccessful offerors by fax with immediate acknowledgment requested**
- 3. Debriefing should be conducted within 5 days**
- 4. Protest to GAO within 5 days of the debriefing date offered, or 10 days after award (whichever is later) is entitled to automatic suspension of contract**

Scheduling Debriefing

- 1. Inform offeror of scheduled date in writing by fax with immediate acknowledgment requested**

Schedule as early as possible since a protest filed with 5 days of debriefing can stop contract performance

- 2. If offeror unable to attend scheduled date and requests later date, offeror should acknowledge in writing it was offered on earlier date, but requested a later date**
- 3. If offeror submits untimely request for debriefing, CO should inform offeror request is untimely, but conduct debriefing if feasible**

Where to Debrief



- 1. CO selects suitable location**
- 2. May be by telephone or VTC, face-to-face**
- 3. Debrief at contractor's facility should be considered**
 - allows a higher degree of industry participation
 - more likely to brief industry decision makers
 - may reduce likelihood of protest due to misunderstanding
- 4. Needs of offeror should be afforded due consideration but CO makes final decision**

Who Attends



- 1. CO chairs and either CO or SSET chairperson briefs**
- 2. CO selects attendees before award is announced**
- 3. JAG, CO, SSET Chief, Lead Technical, Lead Cost, etc.**
- 4. Offeror should identify attendees and position prior to debrief**
- 5. Debriefing should be scripted, reviewed and approved by JAG, and then read at debriefing**
- 6. SSA is encouraged to attend**
 - improves credibility**
 - sends message to industry that their time and resources expended are appreciated**



Debriefing

- 1. Introduce attendees**
- 2. Explain purpose**
- 3. Explain ground rules**
- 4. Offerors may submit questions prior to debriefing**
- 4. Offerors may ask questions during debriefing**
- 5. Suggest offeror designate spokesperson for their team**

Post Award Debriefing -Unsuccessful Offeror

- 1. Explain evaluation process**
- 2. Identify SSA and attendees (don't identify Gov't evaluators who are not in attendance)**
- 3. Restate Factors, Sub-Factors**
- 4. Rating that was provided to the SSA**
- 5. Overall evaluated Cost or Price and Technical Rating**
- 6. Description of strengths, proposal inadequacies, risks weaknesses and deficiencies for that offeror (use same charts that were briefed to SSA for that offeror)**
- 7. Past performance rating**
- 8. Overall evaluated Cost or Price and Technical Rating of successful offeror (do not disclose any**

Post Award Debriefing -Unsuccessful Offeror

- 9. Description provided to SSA of strengths, inadequacies, risks, and weaknesses of successful offeror, appropriately redacted**
- 10. If SSA ranked proposals, overall ranking must be disclosed, but only the alphabetical letter for other unsuccessful offerors(Offeror A, B, C)**
- 11. SS Decision Document, redacted**

Post Award Debriefing - What *NOT* to Disclose

- 1. Cost/price of other unsuccessful offerors**
- 2. Names of unsuccessful offeror in ranking**
- 3. Gov't team evaluators/advisors who don't attend debrief**
- 4. Point by point comparison with other offerors**
- 5. Trade secrets, privileged, confidential information, commercial , financial information that is privileged or confidential such as cost breakdowns, profits, rates, etc., names of individuals providing past performance information**
- 6. Proprietary information**

Pre Award Debriefing - Unsuccessful Offeror

- 1. At offeror's request, may be delayed until after award**
- 2. CO may delay until after award if there are compelling reasons (it is not in the best interests of the Gov't)**
- 3. If delayed until after award, use Post-Award guidelines**
- 4. If timely request not filed, debriefing not required**
- 5. Only one debriefing per offeror**
- 6. Provide description of strengths, proposal inadequacies, risks weaknesses and deficiencies for that offeror**
- 7. Summary of rationale for eliminating that offeror from competition**

Pre Award Debriefing - What *NOT* to Disclose

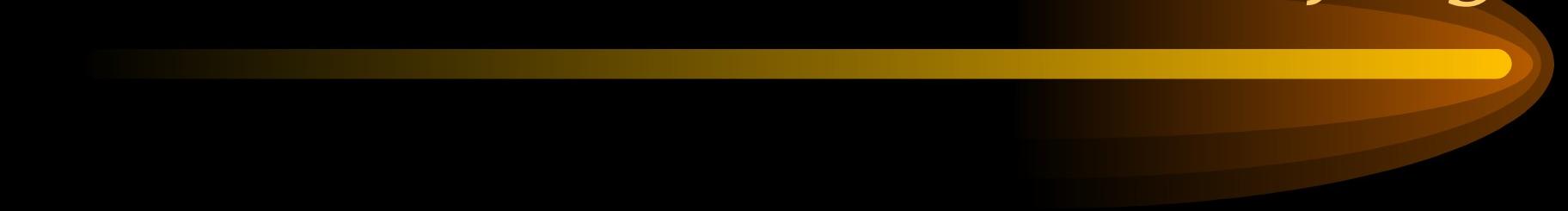
- 1. Number of offerors**
- 2. Identify of other offerors**
- 3. Content of other offerors proposals**
- 4. Ranking of other offerors**
- 5. Evaluation of other offerors**
- 6. Trade secrets, privileged, confidential information, commercial , financial information that is privileged or confidential such as cost breakdowns, profits, rates, etc., names of individuals providing past performance information**
- 7. Proprietary information**

Post Debriefing Memorandum



- 1. CO must prepare post debriefing memorandum**
- 2. Summarize each debriefing for contract file**
- 3. List of persons who attended the debriefing**
- 4. Summary of information disclosed (attach charts)**
- 5. Substance of questions and answers discussed at the debriefing, including answers provided after the debriefing**

Example Format for a Debriefing



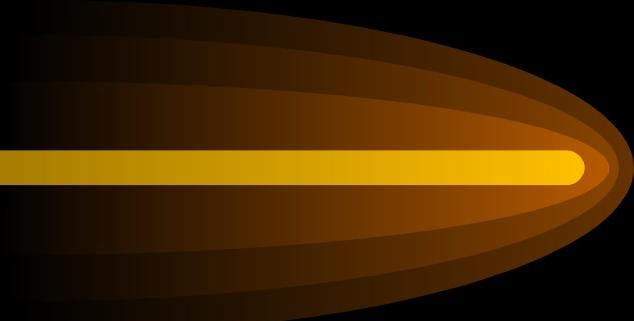


*Debriefing
for
(Program Name)*

Overvi ew

- Introduction
- Purpose
- Ground Rules
- Basis for Award / Evaluation Criteria
- Recommendation for Improvement

Introduc tion

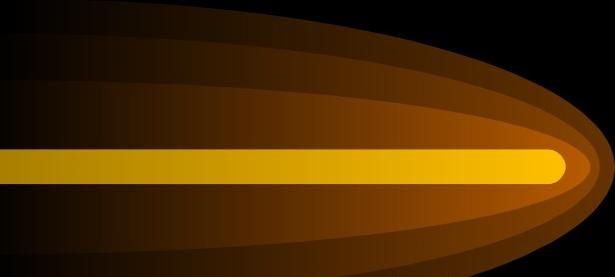


- Program:
- RFP Number:
- Proposal Debriefing:
- Date of Debriefing:

Purpo se

Our objectives in providing this debriefing are to highlight the significant strengths, weaknesses and risks identified during evaluation of your proposal, submitted in response to RFP F33657-xx-R-, and to assist you in the improvement of your future source selection performance.

Ground Rules



- Your significant strengths, weaknesses and risks will be discussed
- Yours and the successful offeror's overall evaluated MPLCC, MPS (**tailor to your cost and schedule criteria**), and ratings for all factors/sub-factors, and your past performance information will be discussed
- Summary of the rationale for award, source selection decision document, has already been provided (**tailor to your process; often, a redacted decision document is provided to unsuccessful offerors with the notification letter**)

Ground Rules (Cont'd)

- We will provide reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed.
 - Time will be provided for both oral and written questions
 - Every effort will be made to answer questions during the debriefing
 - Answers not provided the same day will be provided in writing as soon as possible
- A point-by-point comparison of your proposal with those of any of the other offerors' will not be made

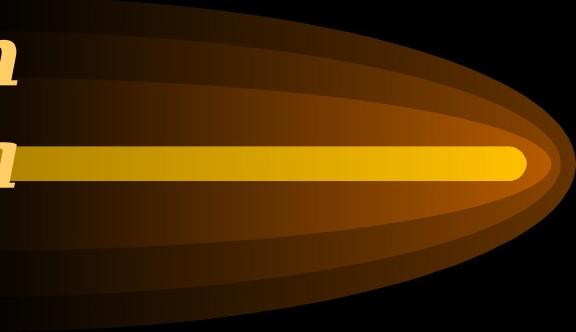
Ground Rules

(Cont'd)



- **This debriefing shall not reveal any information prohibited from disclosure by FAR 24.202 or exempt from release under the freedom of information act, including**
 - **trade secrets**
 - **privileged or confidential manufacturing processes and techniques**
 - **commercial and financial information that is privileged or confidential**
 - **the names of individuals providing past performance information**
- **Copies of briefing charts and script will be provided upon request at the conclusion of the debriefing**

Evaluation Criteria



- **Mission Capability Factor**
- **Past Performance Factor**
- **Price/Cost Factor**
- **Proposal Risk Factor**

TAILOR TO YOUR SOLICITATION

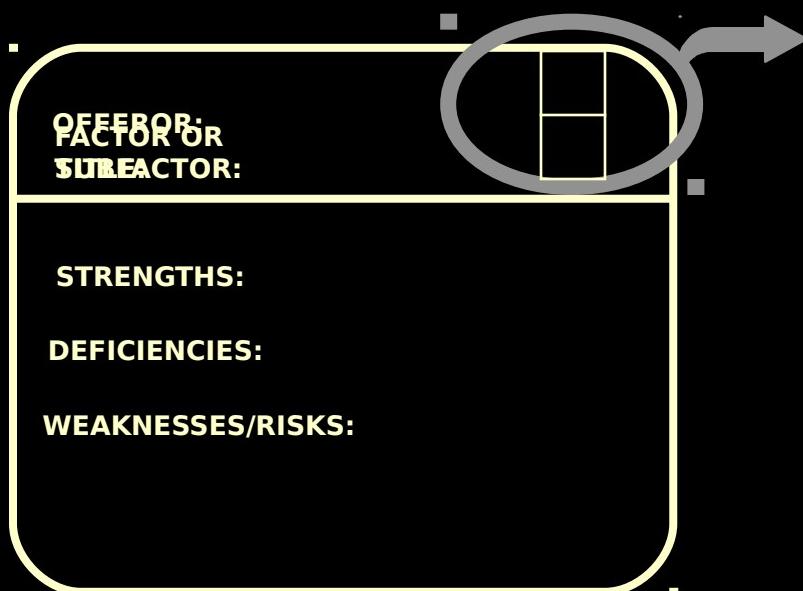
Basis for Award



- Contract award will be made to the responsible offeror whose proposal is determined to provide the best overall value to the government
 - Award decision based upon an integrated assessment of the evaluation criteria and general considerations
 - The government reserves the right to award to other than the lowest most probable life cycle cost (MPLCC)
 - The government reserves the right to award without discussions or negotiations

(TAILOR TO YOUR SOLICITATION)

Chart Format



PROPOSAL
COLOR
RATING

R, Y, G, B

PROPOSAL
RISK
RATING

H, M, L

USE THE SAME CHARTS THAT YOU BRIEF THE SSA.

Protests

- Must be filed within 10 calendar days after basis of protest is known or should have been known, whichever is *earlier*
- Protester shall not file initial protest before the debriefing date is offered, but must file within 10 days after the date on which the debriefing is held
- Protest untimely on their face may be dismissed
- GAO shall notify the contracting agency by phone within 1 day after the filing of a protest
- Agency has 30 days to file a report with GAO
- GAO Decision within 100 days after protest is filed

Protests After Award



- **Protest filed**
 - **within 10 days after Contract Award; OR**
 - **within 5 days after Debriefing Date Offered to the Protestor,**
 - **whichever is later**
- **CO shall immediately suspend performance or terminate the contract**
 - **Exceptions:**
 - **HCA may authorize contract performance upon written finding that it is in best interests of US; or, urgent and compelling circumstances will not permit waiting for GAO decision**
- **Protest filed after time limit**
 - **Suspension or termination not required**

Advice/Lessons Learned on Dealing with Protests



Jackie L. Owens

ASC/SMKN

56004, ext. 3654

11 May 00



Can You Prevent a Protest?

The simple answer is “No”

- **A protest is the losing offerors' only means of potentially re-entering the competition after either being removed before award or losing the award to another offeror.**
- **There is no such recourse in the commercial world. If you lose, you lose. Maybe someday the regulations will change to eliminate protests since we are supposed to be moving toward use of commercial practices.**

Can You Prevent a Protest?

- Certain situations have a higher risk of getting a protest than others, for example:
 - If you have a competition for a follow-on buy in which an incumbent contractor is competing and the incumbent wins, the other offerors will think “the fix was in” and they never had a chance. Therefore, they protest.
 - Another risky situation is when you have both small and large businesses competing in a full and open competition. If a large business wins, the small businesses will think they never had a chance of competing against the resources available to large businesses. They will claim some sort of unfair advantage. Therefore, they protest.

Can You Reduce Your Risk of Getting a Protest?

- Yes, by doing the following:
 - Follow the source selection rules set forth in the FAR & FAR supplements.
 - Be as open as you intelligently can in your debriefings to the losing offerors.
 - Evaluate proposals in accordance with Section M of your RFP, your source selection standards and your source selection plan.
 - Treat offerors fairly, impartially, and professionally.
 - This sounds simple, but people sometimes bring their own biases to a source selection. For example, if you have dealt with a company before, you might be tempted to let that influence your evaluations. Don't do it. Past performance is the PRAG's responsibility to assess. You must be objective and look strictly at the proposals.

Be Prepared for a Protest



- **Be organized and keep up with contract filing**
 - This sounds very simplistic but, it is easy to let this slide since you are usually very busy during the source selection. Don't do it or you will regret it if you get a protest.
- **Demand good administrative help**
 - The buyer and PCO don't have time to do all the administrative work, but it is very important and must be done.
- **Prepare detailed contract file indexes for each file item so you can quickly find what you are looking for**
 - Keep them up to date.

Be Prepared for a Protest (cont'd)

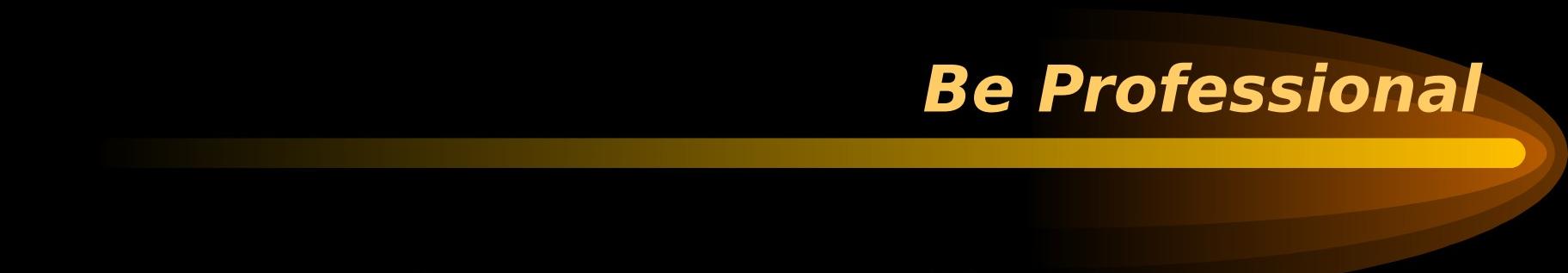


- **You will have only 4 - 15 days to submit an Agency Report in response to a protest and you can't be searching for documents lying in stacks somewhere.**
- **See AFFARS 5344.104-90 (a)(2) for the contents of the Agency Report. You will have to drop everything and start pulling together copies for the protestor, the GAO, SAF/AQCX, SAF/GCQ, and any interested parties of various documents.**

Be Prepared for a Protest (cont'd)

- **If this is really the case for your program, I would recommend you start documenting this need to award or to continue performance before you get a protest. You will only have a few days to get the entire package to SAF for approval.**
- **At least determine and get agreement on who is going to write such justification, i.e., will it be the user, the platform SPO, or your program manager? At what level do you want this justification to come from?**
- **You won't have time to argue about this after the protest comes in.**

Be Professional



- **Don't write or even say anything that you wouldn't want the offeror's attorneys to get their hands on or to find out that you said.**
- **A protestor's attorney can get copies of any relevant source selection information such as evaluation notices or even your working notes.**
- **Don't make snide or demeaning remarks about an offeror or protestor in meetings or on paper; they may come back to haunt you in a protest situation.**

Read the FAR & Supplements (Parts 15 & 33)



- **The FAR is dry reading material, but it is the most important guidance you will receive. It will tell you just about everything you need to know regarding how to handle protests at the Agency or GAO levels. Print out a copy of parts 15 & 33 and go through them carefully - before you get a protest!**
- **For example, you should know what the impacts of a protest might be on your program if you remove an offeror during source selection before contract award vs. after award.**
- **If you receive a protest before award, you can continue with your source selection; however, you can't award the contract without obtaining SAF/AQ approval on the basis that it is urgent and compelling.**

Read the FAR & Supplements (Parts 15 & 33)

- **If you receive a protest after award, you must stop performance, terminate the contract, or request authority to continue performance on the basis of urgent and compelling requirements. If you request authority to keep going, you must submit your request to SAF/AQCX along with the agency report within 4 days of protest notification.**
- **You will want to know how many days the protestor has to submit his protest and how many days the GAO has to respond.**

Resolving Protests:

- **If you get a protest, you may want to have a face-to-face session with the protestor in an attempt to get them to withdraw their protest.**
- **I've found this is more successful if the protestor's attorney is an in-house attorney. If they have hired an outside law firm, there is a built-in conflict of interest, since, if the attorney settles the protest, he loses his future income!**
- **Be open in your discussions, but don't be naive! You can bet the protestor will have his attorney present taking copious notes. You should do the same to prevent having statements misquoted back to you in a supplemental protest.**

Resolving Protests (cont'd):

- **Take your attorney to any meetings with the protestor! Have ground rules before you go in regarding who is going to talk and when you need to call a caucus.**
- **Don't volunteer too much information in an attempt to appear “open” and “willing to communicate”. If you do, you will have your comments repeated or twisted back to you later in a supplemental protest!**
- **You may want to use an Alternative Dispute Resolution method in an attempt to settle the protest. The GAO may be the preferred party to mediate since they are unbiased. If you reach an agreement, be sure to get all parties to sign it. Also be sure you can back out before you sign**

Keep Your Lawyers Involved

- **Don't leave your attorneys out of important meetings or training sessions.**
- **Be sure they coordinate on the evaluation notices.**
- **You may want to include SAF/GCQ in your briefings to the SSA. They will ultimately have to defend a protest at the GAO level if you get one. Get their buy-in up front and throughout the source selection rather than have them second guess your decisions afterwards.**

Source Selection Decision Document



- **The SSDD is the document that reflects the SSA's integrated assessment and selection decision. The SSDD must be the single summary document supporting selection of the best value proposal consistent with the stated evaluation criteria. The SSDD clearly explains the decision and documents the reasoning used by the SSA to reach a decision.**
- **Draft this document carefully. It may well be the most important document you prepare, other than the contract.**
- **Don't be pressured into preparing this too quickly.**

Source Selection Decision Document



- **Protestors will often try to pick apart the SSDD. Don't give them ammunition by preparing a sloppy document.**
- **Be sure it reflects what you did and that it follows your stated evaluation criteria.**
- **Show it to the lawyers before it goes out. I suggest requesting SAF/GCQ to also look at it.**

Get Electronic Copies of the Protest & Samples of Protest Related Documents

- The protestor will send you a paper copy of the protest. I suggest you immediately take the best paper copy you have to your computer support personnel and ask them to scan it in as a Word document for you.
- Once you have the protest available in Word, you can copy and paste each allegation into your PCO Statement of Facts and refute each one.
- Send a copy to the lawyer for his/her use in preparing the Memorandum of Law.
- You will also save time if you can get electronic samples of protest related documents such as the Agency Transmittal Letter, the PCO Statement of Fact, the Memorandum of Law, and the Index to the Agency Report.
- You won't have time to "re-invent the wheel" once you get a protest.